

DRAFT MINUTES HEARING OFFICER April 16, 2019

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

REGULAR SESSION 5:01 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Principal Planner
Brittainy Nelson, Administrative Assistant I

There were 3 interested citizens present at the regular session.

Meeting convened at 5:00 PM and was called to order by Vanessa MacDonald. They stated that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) calendar days, by April 30, 2019 at 3:00 PM, to the Community Development Department.

1. The following was noted:

- **Agenda Item No. 1**

April 02, 2019 Hearing Officer Minutes

Vanessa MacDonald, Hearing Officer, stated that the April 02, 2019 Hearing Officer Minutes had been reviewed and were approved.

2. Request abatement of public nuisance items at the **LOREN PROPERTY** located at 1220 S. Mill Avenue. The applicant is the City of Tempe (**CE181300**).

Andres Lara-Reyes, Code Inspector, gave the following overview of this case:

- Dead tree in backyard
- Violation since March of 2018
- Owner was found in violation in the civil court

Ms. MacDonald clarified that in the packet that she received the violations where for a tree stump, a dead tree, and debris in the driveway.

Mr. Lara-Reyes stated that the front of the property has been taken care of and that the only thing that remains is the tree in the backyard.

Ms. MacDonald asked if there is anyone in the public that would like to speak on agenda item number 2.

Ms. MacDonald invited property owner Ms. Judy Loren to come up and speak.

Ms. Loren stated that initial removal of the 80-year-old tree was brought to her attention within two days of purchasing her new home in April of 2018. The same thing happened when she purchased the property just south of her home in May of 2017 a notice was sent two days after the sale. She was informed by the code inspector that he does not write citations unless neighbors have complained about a certain matter regardless if it is in violation of code or not. She has asked for the names of the neighbors that were filing the complaint and was informed that the information could not be supplied to her. She has removed the tree stump in the front yard. She wanted to keep the tree stump to create art work and was told by Mr. Lara-Reyes that it was not permitted. She wanted to have the names of the neighbors filing the complaint for court and was denied. The tree in her backyard is the home a honey bee colony and has been there for numerous years. The tree is full of bees and honey however the complaint is not about the bees but there home. Ms. Loren will not disturb these bees in their home environment because someone made a complaint about the tree. A tree that is not visible outside of her yard. She has spoken to bee removal companies that stated that removing the bees are timely and costly as well as temporary because the bees will try and come back. Additionally, due to the fact that the tree is full of honey that thousands of rodents from all over will come because of the honey waste. Ms. Loren is the neighbor directly south of the property she owns the club house in front of the property and the neighbor directly south of her has written a letter and has never made a complaint about the tree. There are no neighbors behind her besides an empty lot and squatters that are living on the property now. There has been a complaint about the squatters and nothing has been done about that issue. Mr. Lara-Reyes must climb on the top of the cab of his truck to see the tree. Since Mr. Lara-Reyes must climb on top of his truck to see it how is it that it is considered a nuisance. She is appalled that she must be there to deal with the matter and has been harassed over and over since the purchase of her home over a year ago. She does not have a home owners association and feels that the City Code should apply to everyone however she was told by Mr. Lara-Reyes that he does not write citations unless there is a complaint. She said that she would like to see the proof otherwise she feels that it is harassment. Ms. Loren stated that she arrived today to the meeting and The Chambers has tree stump's as decorations in the front of the building.

Ms. MacDonald asked if there was anyone else in the public that would like to speak on agenda item number 2.

Ms. MacDonald asked Mr. Lara-Reyes if he would like to come back up and say anything regarding to what the home owner mentioned.

Mr. Lara-Reyes stated that he has nothing more to add he has gone over the guidelines of the property and the violation and feel that there needs to be an abatement of the property to bring it into compliance.

Ms. MacDonald stated that beauty is in the eye of the beholder. She then informed Ms. Loren that it is the obligation of the Hearing Officer to uphold the Zoning and Development Code and the Tempe City Code, which has clear standards for deteriorated landscape. In which a dead tree is considered a deteriorated landscaping. It can be distinguished as a tree that is dormant. If a tree is around long enough and is not producing any leaves and serves no purpose, then it needs to be considered deteriorated landscaping. She understands that there is a bee colony there, but it can be removed.

Ms. MacDonald agrees with the assessment of the property.

Ms. MacDonald approved the 180-day abatement.

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3. Request abatement of public nuisance items at the **POLCHOW PROPERTY** located at 1964 E. El Parque Drive. The applicant is the City of Tempe (**CE185599**).

Michael Glab, Code Inspector, gave the following overview of this case:

- August 2018 observed deteriorated landscape grass and weed in gravel
- Mailed noticed to property owner
- December of 2018 deteriorated landscape remained posted notice to structure
- January of 2019 violation remained and issued the violation to the resident of the home
- There is a resident on the property where the owner is at a different property
- The resident had requested and extension
- Between December of 2018 and February 2019 there were about 16 voicemails received from the residents about why the work has not been done and asking for extensions, or advising that the work will be completed shortly
- Three extensions where granted through the time frame

Ms. MacDonald asked if there was anyone in the audience that would like to speak on agenda item number 3.

Ms. MacDonald stated that the property is marketable different then some of the photographs that have been seen but agrees with assessment. Given the patience that has been extraordinary with this property owner normally it does not take six months.

Ms. MacDonald approved the 180-day abatement.

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4. Request abatement of public nuisance items at the **EASTLINE LAND VENTURES LLC PROPERTY** located at 2034 E. Wildermuth Avenue. The applicant is the City of Tempe (**CE187174**).

Michael Glab, Code Inspector, gave the following overview of this case:

- October 2018 received complaint for dead trees, junk, and debris, transient on the property
- Contacted PD and they said that they have been burned with calls about the transient, squatters on the property
- Sent notice of complaints to the property owner of the county as of 2018
- December of 2018 spoke with the property manager and offered an extension
- January of 2019 violation still on property posted notice to premeiter fence line
- Has been in contact with another property manager and they said that the violations are taken care
- Presented photo of property showing the dead tree, and dumpster on the ground showing that work is being done but still in progress
- The property also has a sign to go in front of a commission for redevelopment however not sure of when the work will be completed

Ms. MacDonald asked if there was anyone in the audience that would like to speak on agenda item number 4.

Ms. MacDonald stated that she appreciates how patience Mr. Glab has been with the process and that she is aware of how difficult it can be to track down the owner when it is not a home that one can just go up and knock on the door. She agrees that the property needs to be abated and brought up to code. Also, there is no reason to wait for the outcome of whatever zoning case or application is for the property because those cases can get continued and hung up in the process.

Ms. MacDonald approved the 180-day abatement.

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5. Request abatement of public nuisance items at the **FUJII PROPERTY** located at 2227 E. McArthur Drive. The applicant is the City of Tempe (**CM181305**).

Marvin White, Code Inspector, gave the following overview of this case:

- Over grown weeds and debris
- Citation was issued
- Sent out certified mail and has come back signed that the owner received it

Ms. MacDonald asked if there was anyone in the audience that would like to speak on agenda item number 5.

Ms. MacDonald is aware that the owner is an out of state property owner per her packet of information given to her. Which may be one of the reasons that the property owner is not aware of the state that the property is in.

Ms. MacDonald agrees with the assessment of the property.

Ms. MacDonald approved the 180-day abatement.

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6. Request abatement of public nuisance items at the **KHALIL PROPERTY** located at 2240 E. Apache Blvd. The applicant is the City of Tempe (**CM181306**).

Marvin White, Code Inspector, gave the following overview of this case:

- Vacant parcel with over grown weeds and debris
- Mailed out correspondent to the property as well has not received the signed copy back

Ms. Macdonald stated that with parcels like these sometimes the owner forgets about them and sometimes it maybe easier for them to have the City clean up the property for them.

Ms. MacDonald asked if there was anyone in the audience that would like to speak on agenda item number 6.

Ms. MacDonald agrees with the assessment of the property.

Ms. MacDonald approved the 180-day abatement.

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7. Request abatement of public nuisance items at the **HART PROPERTY** located at 1201 N. Stadem Drive. The applicant is the City of Tempe (**CM190033**).

Marvin White, Code Inspector, gave the following overview of this case:

- Overgrown trees and debris, dead trees
- The property owner Mr. Hart did reach out by phone and inform that he is in the process of trying to bring the property into compliance
- Mr. Hart was advised to come down and speak with the hearing officer himself
- Sent out certified mail and received it back signed
- Some work has been done and will work with property owner but would like to make sure that the property does come into compliance

Ms. MacDonald invited Mr. Hart the property owner up to speak.

Mr. Hart stated that he is about half way done he has cut down some trees. He said that he has completed Tempe Drive and that he is working on getting Stadium Drive completed there is mesquite that needs to be cut up and there are some weeds on the side that needs to be cleaned up. He was hoping to have it all done by today but the guy that is doing the work did not show up.

Ms. MacDonald stated that the best part of the process is that the property owner does have a two-week window between when a decision is rendered, and the work can be completed. If within the next two weeks, then the property will not be abated by the City but with the 180-day abatement it becomes a rolling abatement and that within the 180 days that property owner is still required to maintain the property.

Ms. MacDonald stated that because of the slow progress that she is going to approve the 180-day abatement.

Ms. MacDonald approved the 180-day abatement.

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8. Request abatement of public nuisance items at the **XU PROPERTY** located at 2244 E. Apache Blvd. The applicant is the City of Tempe (**CM190171**).

Marvin White, Code Inspector, gave the following overview of this case:

- Overgrown weeds and debris
- This property has been abated twice since 2016
- The property owner is unable to be contacted

Ms. MacDonald stated that she remembers this property and it is a frequent flyer for her. The property is in the Apache area and a lot of the lots have been bought for investment properties. The property owners are either waiting to sell the property or develop it own there own but nevertheless she is grateful to have the opportunity to keep the properties up to code while they are waiting.

Ms. MacDonald agrees with the assessment of the property.

Ms. MacDonald approved the 180-day abatement.

ANNOUNCEMENTS

- Vanessa MacDonald noted that the next Hearing Officer public hearing is scheduled for Tuesday, May 7, 2019 at 5:00 PM with a study session scheduled for 4:30 PM.

With no further business, the public hearing adjourned at 5:36 PM.

Prepared by: Brittainy Nelson
Reviewed by:

Steve Abrahamson, Principal Planner
For Vanessa MacDonald, Hearing Officer

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